

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

UNITED STATES OF AMERICA)
)
)
) **Criminal Action No. 2004-0105**
v.)
)
)
FELIX CRUZ, et. al.,)
)
)
Defendants.)
)
_____)

Rhonda Williams-Henry, Esq.,
St. Croix, U.S.V.I.
For the Government

Felix Cruz
Defendant Pro Se

ORDER

UPON CONSIDERATION of Magistrate Judge George W. Cannon Jr.'s Report and Recommendation ("R&R") (Dkt. No. 881) regarding Defendant Felix Cruz's Motion to Vacate (Dkt. Nos. 753, 756, 756-1, 756-2); the Government's Response to Defendant Cruz's Motion to Vacate (Dkt. No. 806); Defendant Cruz's Reply (Dkt. No. 857); Defendant Cruz's Objections to Magistrate Judge Cannon's R&R (Dkt. No. 885); Defendant Cruz's First through Eighth Motions to Supplement his Motion to Vacate (Dkt. Nos. 779, 870, 916, 919, 938, 952, 957, 989); the Government's Supplemental Response to Defendant Cruz's Second Motion to Supplement (Dkt. No. 902); and the Government's Supplemental Response to Defendant Cruz's Third through Seventh Motions to Supplement (Dkt. No. 982); and for the reasons stated in the accompanying Memorandum Opinion, filed contemporaneously herewith, it is hereby

ORDERED that Magistrate Judge George W. Cannon Jr.'s Report and Recommendation ("R&R") (Dkt. No. 881) is **ADOPTED AS MODIFIED HEREIN**; and it is further

ORDERED that Defendant Cruz's Motion to Vacate (Dkt. No. 753) is **GRANTED IN PART AND DENIED IN PART**; and it is further

ORDERED that Defendant Cruz's Motion to Vacate is **GRANTED** insofar as the Court finds that two of Defendant Cruz's convictions—Count 6¹ and Count 9²—must be vacated; and it is further

ORDERED that the Court will schedule a resentencing hearing to address the seven counts for which Defendant Cruz's convictions remain valid by further Order of the Court; and it is further

ORDERED that Defendant Cruz's Motion to Vacate is otherwise **DENIED**.

SO ORDERED.

Date: July 18, 2023

/s/
WILMA A. LEWIS
District Judge

¹ Count 6 is causing the death of a person through the use of a firearm, in violation of 18 U.S.C. § 924(j)(1). Count 6 is predicated upon Count 2, attempted Hobbs Act robbery in violation of 18 U.S.C. § 1951(a). (Dkt. No. 309 at 3, 7).

² Count 9 is using a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A). Count 9 is predicated upon Count 8, attempted carjacking in violation of 18 U.S.C. § 2119(1). (Dkt. No. 309 at 9, 10).